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 HELP OTHERS

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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

CRAIG YATES, an individual; and
 DISABILITY RIGHTS, ENFORCEMENT,
 EDUCATION, SERVICES: HELPING YOU
 HELP OTHERS, a California public benefit
 corporation,

Plaintiffs,

v.

ARTHUR C. S. HSU, and GLENDY M. H.
 HSU TRUSTEES UDT; and RAYMOND
 HSU, an individual,

Defendants.

CASE NO.
Civil Rights

**COMPLAINT FOR INJUNCTIVE RELIEF
 AND DAMAGES:**

1st CAUSE OF ACTION: For Denial of Access
 by a Public Accommodation in Violation of the
 Americans with Disabilities Act of 1990 (42
 U.S.C. §12101, *et seq.*)

2nd CAUSE OF ACTION: For Denial of Full
 and Equal Access in Violation of California
 Civil Code §§54, 54.1 and 54.3

3rd CAUSE OF ACTION: For Denial of
 Accessible Sanitary Facilities in Violation of
 California Health & Safety Code §19955, *et seq.*

4th CAUSE OF ACTION: For Denial of
 Access to Full and Equal Accommodations,
 Advantages, Facilities, Privileges and/or
 Services in Violation of California Civil Code
 §51, *et seq.* (The Unruh Civil Rights Act)

DEMAND FOR JURY

COMPLAINT FOR INJUNCTIVE RELIEF AND DAMAGES

1 Plaintiffs CRAIG YATES, an individual; and DISABILITY RIGHTS, ENFORCEMENT,
2 EDUCATION, SERVICES: HELPING YOU HELP OTHERS, a California public benefit
3 corporation (hereinafter sometimes referred to as “DREES”), complain of defendants ARTHUR
4 C. S. HSU, and GLENDY M. H. HSU TRUSTEES UDT; and RAYMOND HSU, an individual
5 and allege as follows:

6 **INTRODUCTION:**

7 1. This is a civil rights action for discrimination against persons with physical
8 disabilities, of which class plaintiff CRAIG YATES and the membership of DREES are
9 members, for failure to remove architectural barriers structural in nature at defendants’ Java
10 Restaurant, a place of public accommodation, thereby discriminatorily denying plaintiffs and the
11 class of other similarly situated persons with physical disabilities access to, the full and equal
12 enjoyment of, opportunity to participate in, and benefit from, the goods, facilities, services, and
13 accommodations thereof. Plaintiffs seek injunctive relief and damages pursuant to the
14 Americans with Disabilities Act of 1990, 42 U.S.C. §12101, *et seq.*; California Civil Code §§51,
15 51.5 and 54, *et seq.*; and California Health & Safety Code §19955, *et seq.*

16 2. Plaintiff CRAIG YATES is a person with physical disabilities who, on or about
17 September 14, 2007, February 16, 2008, September 17, 2008 and September 22, 2008, was an
18 invitee, guest, patron, customer at defendants’ Java Restaurant, in the City of San Francisco,
19 California. At said time and place, defendants failed to provide proper legal access to the
20 restaurant, which is a “public accommodation” and/or a “public facility” including, but not
21 limited to the entrance, men’s restroom and women’s restroom. The denial of access was in
22 violation of both federal and California legal requirements, and plaintiff CRAIG YATES
23 suffered violation of his civil rights to full and equal access, and was embarrassed and
24 humiliated.

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1 **JURISDICTION AND VENUE:**

2 3. **Jurisdiction:** This Court has jurisdiction of this action pursuant to 28 U.S.C.
 3 §1331 for violations of the Americans with Disabilities Act of 1990, 42 U.S.C. §12101, *et seq.*
 4 Pursuant to pendant jurisdiction, attendant and related causes of action, arising from the same
 5 nucleus of operative facts and arising out of the same transactions, are also brought under parallel
 6 California law, whose goals are closely tied with the ADA, including but not limited to violations
 7 of California Civil Code §51, *et seq.* and §54, *et seq.*, California Health & Safety Code §19955 *et*
 8 *seq.*, including §19959; Title 24 California Building Standards Code.

9 4. **Venue:** Venue is proper in this court pursuant to 28 U.S.C. §1391(b) and is
 10 founded on the facts that the real property which is the subject of this action is located at/near
 11 417 Clement Street, in the City and County of San Francisco, State of California, and that
 12 plaintiffs' causes of action arose in this county.

13 **PARTIES:**

14 5. Plaintiff CRAIG YATES is a "physically handicapped person", a "physically
 15 disabled person", and a "person with physical disabilities" (hereinafter the terms "physically
 16 disabled", "physically handicapped" and "person with physical disabilities" are used
 17 interchangeably, as these words have similar or identical common usage and legal meaning, but
 18 the legislative scheme in Part 5.5 of the Health & Safety Code uses the term "physically
 19 handicapped persons" and the Unruh Civil Rights Act, §§51, 51.5, 54 and 54.1, and other
 20 statutory measures refer to protection of the rights of "physically disabled persons"). Plaintiff
 21 CRAIG YATES is a "person with physical disabilities", as defined by all applicable California
 22 and United States laws. Plaintiff is a triplegic. Plaintiff CRAIG YATES requires the use of a
 23 wheelchair to travel about in public. Consequently, plaintiff CRAIG YATES is a member of that
 24 portion of the public whose rights are protected by the provisions of Health & Safety Code
 25 §19955, *et seq.* (entitled "Access to Public Accommodations by Physically Handicapped
 26 Persons") and the protections of the Unruh Civil Rights Act, Civil Code §§51 and 51.5 the
 27 Disabled Persons Act, Civil Code §54, and the Americans with Disabilities Act, 42 U.S.C.
 28 §12101, *et seq.*

1 6. Plaintiff DISABILITY RIGHTS, ENFORCEMENT, EDUCATION, SERVICES:
2 HELPING YOU HELP OTHERS (“DREES”) is a nonprofit (501(c)(3)) organization that works
3 with persons with disabilities to empower them to be independent in American society. DREES
4 accomplishes its goals and purposes through education on disability issues, enforcement of the
5 rights of persons with disabilities, and the provision of services to persons with disabilities, the
6 general public, public agencies and the private business sector. DREES brings this action on
7 behalf of its members, many of whom are persons with physical disabilities and whom have
8 standing in their right to bring this action.

9 7. That members of DREES, like plaintiff CRAIG YATES, will or have been guests
10 and invitees at the subject Java Restaurant, and that the interests of plaintiff DREES in removing
11 architectural barriers at the subject restaurant advance the purposes of DREES to assure that all
12 public accommodations, including the subject restaurant, are accessible to independent use by
13 mobility-impaired persons. The relief sought by plaintiff DREES as alleged herein is purely
14 statutory in nature.

15 8. Defendants ARTHUR C. S. HSU, and GLENDY M. H. HSU TRUSTEES UDT;
16 and RAYMOND HSU, an individual (hereinafter alternatively collectively referred to as
17 “defendants”) are the owners and operators, lessors and/or lessees, or agents of the owners,
18 lessors and/or lessees, of the public accommodation known as Java Restaurant, located at/near
19 417 Clement Street, San Francisco, California, or of the building and/or buildings which
20 constitute said public accommodation.

21 9. At all times relevant to this complaint, defendants ARTHUR C. S. HSU, and
22 GLENDY M. H. HSU TRUSTEES UDT; and RAYMOND HSU, an individual, own and operate
23 in joint venture the subject Java Restaurant with John Chuenkwan Lee and Anna Lee as a public
24 accommodation. This business is open to the general public and conducts business therein. The
25 business is a “public accommodation” or “public facility” subject to the requirements of
26 California Civil Code §§51, 51.5 and 54, *et seq.*, Health and Safety code §19955, *et seq.*, and the
27 ADA, 42 U.S.C. §12101, *et seq.*

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10. At all times relevant to this complaint, defendants ARTHUR C. S. HSU, and GLENDY M. H. HSU TRUSTEES UDT; and RAYMOND HSU, an individual are jointly and severally responsible to identify and remove architectural barriers at the subject Java Restaurant pursuant to Code of Federal Regulations title 28, section 36.201(b), which states in pertinent part:

§ 36.201 General

(b) *Landlord and tenant responsibilities.* Both the landlord who owns the building that houses a place of public accommodation and the tenant who owns or operates the place of public accommodation are public accommodations subject to the requirements of this part. As between the parties, allocation of responsibility for complying with the obligations of this part may be determined by lease or other contract.

28 CFR §36.201(b)

PRELIMINARY FACTUAL ALLEGATIONS:

11. The Java, is a restaurant, located at/near 417 Clement Street, San Francisco, California. The Java Restaurant, its entrance, men's restroom, women's restroom, and its other facilities are each a "place of public accommodation or facility" subject to the barrier removal requirements of the Americans with Disabilities Act. On information and belief, each such facility has, since July 1, 1970, undergone "alterations, structural repairs and additions", each of which has subjected the Java Restaurant and each of its facilities, its entrance, men's restroom and women's restroom to disability access requirements per the Americans with Disabilities Act Accessibility Guidelines (ADAAG), and Title 24 of the California Code of regulations (Title 24).

12. At all times stated herein, plaintiff CRAIG YATES was a member of DREES.

13. At all times referred to herein and continuing to the present time, defendants, and each of them, advertised, publicized and held out the Java Restaurant as being handicapped accessible and handicapped usable.

14. On or about September 14, 2007, February 16, 2008, September 17, 2008 and September 22, 2008, plaintiff CRAIG YATES was an invitee and guest at the subject Java Restaurant, for purposes of having food and beverages.

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1 15. On or about September 14, 2007, February 16, 2008, September 17, 2008 and
2 September 22, 2008, plaintiff CRAIG YATES was unable to access the Java Restaurant due to a
3 four to five (4 to 5) inch raised concrete landing, which in essence was a step.

4 16. At said times and place, plaintiff CRAIG YATES at best could only have the Java
5 Restaurant's food if plaintiff CRAIG YATES ordered his food to-go in those instances, as stated
6 herein. Plaintiff CRAIG YATES was compelled to knock on the window with his car keys to get
7 the attention of an employee. Then, the employee would come outside and take plaintiff CRAIG
8 YATES's order from the sidewalk.

9 17. Prior to the filing of the complaint, representatives of plaintiff CRAIG YATES, at
10 plaintiff CRAIG YATES's request, inspected the men's and women's restroom. Plaintiff
11 CRAIG YATES's representatives informed him that neither restroom was accessible for a
12 wheelchair user. However, if both restrooms were combined, it would create one (1) usable
13 unisex restroom for a wheelchair user.

14 18. On or about March 28, 2008, plaintiff CRAIG YATES wrote both the landlord
15 and the tenant about the inaccessible entrance and suggested how it could be remedied. Plaintiff
16 CRAIG YATES never received a response.

17 19. On or about September 17, 2008, and thereafter, plaintiff CRAIG YATES
18 considered any attempt to use the sanitary facilities at the Java Restaurant, a futile gesture.

19 20. Therefore, at said time(s) and place, plaintiff CRAIG YATES, a person with a
20 disability, encountered the following inaccessible elements of the subject Java Restaurant which
21 constituted architectural barriers and a denial of the proper and legally-required access to a public
22 accommodation to persons with physical disabilities including, but not limited to:

- 23 a. lack of an accessible entrance due to a 4 to five (4 to 5) inch landing;
- 24 b. lack of a handicapped-accessible women's public restroom;
- 25 c. lack of a handicapped-accessible men's public restroom; and
- 26 d. On personal knowledge, information and belief, other public facilities and
27 elements too numerous to list were improperly inaccessible for use by
28 persons with physical disabilities.

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1 21. At all times stated herein, the existence of architectural barriers at defendants’
2 place of public accommodation evidenced “actual notice” of defendants’ intent not to comply
3 with the Americans with Disabilities Act of 1990 either then, now or in the future.

4 22. On or about March 28, 2008, defendant(s) were sent two (2) letters by or on behalf
5 of plaintiff CRAIG YATES advising of the existence of architectural barriers, requesting a
6 response within 14 days and requesting remedial measures be undertaken within 90 days or an
7 explanation of why the time limit set could not be met and/or extenuating circumstances. Said
8 letters are attached hereto collectively as exhibit “A” and incorporated by reference as though
9 fully set forth herein. Defendants’ failure to respond evidenced an intent not to seek or engage in
10 an early and reasonable resolution of the matter.

11 23. At all times stated herein, defendants, and each of them, did not act as reasonable
12 and prudent landlord/tenant and were “negligent per se” or at a minimum negligent for not
13 removing architectural barriers that would foreseeably prevent plaintiff CRAIG YATES from
14 receiving the same goods and services as able bodied people and some of which may and did pose
15 a threat of harm and/or personal injury to people with disabilities.

16 24. As a legal result of defendants ARTHUR C. S. HSU, and GLENDY M. H. HSU
17 TRUSTEES UDT; and RAYMOND HSU, an individual’s failure to act as a reasonable and
18 prudent public accommodation in identifying, removing or creating architectural barriers, policies,
19 practices and procedures that denied access to plaintiffs and other persons with disabilities,
20 plaintiffs suffered the damages as alleged herein.

21 25. As a further legal result of the actions and failure to act of defendants, and as a
22 legal result of the failure to provide proper handicapped-accessible public facilities as set forth
23 herein, plaintiffs were denied their civil rights to full and equal access to public facilities. Plaintiff
24 CRAIG YATES suffered a loss of his civil rights and his rights as a person with physical
25 disabilities to full and equal access to public facilities.

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1 26. Further, plaintiff CRAIG YATES suffered emotional distress, mental distress,
2 mental suffering, mental anguish, which includes, but is not limited to, shame, humiliation,
3 embarrassment, anger, disappointment and worry, expectedly and naturally associated with a
4 person with physical disabilities being denied access, all to his damages as prayed hereinafter in
5 an amount within the jurisdiction of this court. No claim is being made for mental and emotional
6 distress over and above that usually associated with the discrimination and physical injuries
7 claimed, and no expert testimony regarding this usual mental and emotional distress will be
8 presented at trial in support of the claim for damages.

9 27. Defendants', and each of their, failure to remove the architectural barriers
10 complained of herein created, at the time of plaintiff CRAIG YATES's first visit to said public
11 accommodation, and continues to create continuous and repeated exposure to substantially the
12 same general harmful conditions which caused plaintiff CRAIG YATES harm as stated herein.

13 28. Plaintiff CRAIG YATES and the membership of DREES were denied their rights
14 to equal access to a public facility by defendants ARTHUR C. S. HSU, and GLENDY M. H. HSU
15 TRUSTEES UDT; and RAYMOND HSU, an individual, because defendants ARTHUR C. S.
16 HSU, and GLENDY M. H. HSU TRUSTEES UDT; and RAYMOND HSU, an individual
17 maintained a restaurant without access for persons with physical disabilities to its facilities,
18 including but not limited to the entrance, men's restroom, women's restroom, and other public
19 areas as stated herein, and continue to the date of filing this complaint to deny equal access to
20 plaintiffs and other persons with physical disabilities in these and other ways.

21 29. On information and belief, construction alterations carried out by defendants have
22 also triggered access requirements under both California law and the Americans with Disabilities
23 Act of 1990.

24 30. Plaintiffs, as described hereinbelow, seek injunctive relief to require the Java
25 Restaurant to be made accessible to meet the requirements of both California law and the
26 Americans with Disabilities Act of 1990, whichever is more restrictive, so long as defendants
27 operate the restaurant as a public facility.

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1 31. Plaintiffs seek damages for violation of their civil rights on September 14, 2007,
2 February 16, 2008, September 17, 2008 and September 22, 2008 and they seek statutory damages
3 of not less than \$4,000, pursuant to Civil Code §52(a) or alternatively \$1000 pursuant to Civil
4 Code §54.3, for each day after his visit that the trier of fact (court/jury) determines was the date
5 that some or all remedial work should have been completed under the standard that the landlord
6 and tenant had an ongoing duty to identify and remove architectural barriers where it was readily
7 achievable to do so, which deterred plaintiff CRAIG YATES from returning to the subject public
8 accommodation because of his knowledge and/or belief that neither some or all architectural
9 barriers had been removed and that said premises remains inaccessible to persons with disabilities
10 whether a wheelchair user or otherwise.

11 32. On information and belief, defendants have been negligent in their affirmative duty
12 to identify the architectural barriers complained of herein and negligent in the removal of some or
13 all of said barriers.

14 33. Because of defendants' violations, plaintiffs and other persons with physical
15 disabilities are unable to use public facilities such as those owned and operated by defendants on a
16 "full and equal" basis unless such facility is in compliance with the provisions of the Americans
17 with Disabilities Act of 1990, Civil Code §54.1 and Health & Safety Code §19955, *et seq.* and
18 other accessibility law as plead herein. Plaintiffs seek an order from this court compelling
19 defendants to make the Java Restaurant accessible to persons with disabilities.

20 34. On information and belief, defendants have intentionally undertaken to modify and
21 alter existing building(s), and have failed to make them comply with accessibility requirements
22 under the requirements of ADAAG and Title 24. The acts and omission of defendants, and each
23 of them, in failing to provide the required accessible public facilities at the time of plaintiff's visit
24 and injuries, indicate actual and implied malice toward plaintiffs, and despicable conduct carried
25 out by defendants, and each of them, with a willful and conscious disregard for the rights and
26 safety of plaintiffs and other similarly situated persons, and justify a trebling of damages as
27 provided by Civil Code §§52(a) and 54.3, in order to make a more profound example of
28 defendants, and each of them, to other operators and landlords of other restaurants and other

1 public facilities, and to punish defendants and to carry out the purposes of the Civil Code §§ 51,
2 51.5 and 54.

3 35. Plaintiffs are informed and believe and therefore allege that defendants ARTHUR
4 C. S. HSU, and GLENDY M. H. HSU TRUSTEES UDT; and RAYMOND HSU, an individual,
5 and each of them, caused the subject building(s) which constitute the Java Restaurant to be
6 constructed, altered and maintained in such a manner that persons with physical disabilities were
7 denied full and equal access to, within and throughout said building(s) of the restaurant and were
8 denied full and equal use of said public facilities. Furthermore, on information and belief,
9 defendants have continued to maintain and operate said restaurant and/or its building(s) in such
10 conditions up to the present time, despite actual and constructive notice to such defendants that
11 the configuration of the Java Restaurant and/or its building(s) is in violation of the civil rights of
12 persons with physical disabilities, such as plaintiff CRAIG YATES, the membership of plaintiff
13 DREES and the disability community which DREES serves. Such construction, modification,
14 ownership, operation, maintenance and practices of such public facilities are in violation of Civil
15 Code §§51, 51.5 and 54, Health and Safety Code §19955, and the ADA, 42 U.S.C. §12101, *et seq.*

16 36. On personal knowledge, information and belief, the basis of defendants' actual and
17 constructive notice that the physical configuration of the facilities including, but not limited to,
18 architectural barriers constituting the Java Restaurant and/or building(s) was in violation of the
19 civil rights of persons with physical disabilities, such as plaintiffs, includes, but is not limited to,
20 communications with invitees and guests, plaintiff CRAIG YATES himself, owners of other
21 restaurants, hotels, motels and businesses, notices they obtained from governmental agencies upon
22 modification, improvement, or substantial repair of the subject premises and other properties
23 owned by these defendants, newspaper articles and trade publications regarding the Americans
24 with Disabilities Act of 1990 and other access laws, public service announcements by former U.S.
25 Attorney General Janet Reno between 1993 and 2000, and other similar information. Defendants'
26 failure, under state and federal law, to make the Java Restaurant accessible is further evidence of
27 defendants' conscious disregard for the rights of plaintiff and other similarly situated persons with
28 disabilities. Despite being informed of such effect on plaintiff and other persons with physical

disabilities due to the lack of accessible facilities, defendants, and each of them, knowingly and willfully refused to take any steps to rectify the situation and to provide full and equal access for plaintiffs and other persons with physical disabilities to the restaurant. Said defendants, and each of them, have continued such practices, in conscious disregard for the rights of plaintiffs and other persons with physical disabilities, up to the date of filing of this complaint, and continuing thereon. Defendants had further actual knowledge of the architectural barriers referred to herein by virtue of the demand letter addressed to the defendants and served concurrently with the summons and complaint. Said conduct, with knowledge of the effect it was and is having on plaintiffs and other persons with physical disabilities, constitutes despicable conduct in conscious disregard of the rights and safety of plaintiffs and of other similarly situated persons, justifying the imposition of treble damages per Civil Code §§52 and 54.3.

37. Plaintiff CRAIG YATES and plaintiff DREES, on behalf of its membership and the disability community which it serves, consisting of persons with disabilities, would, could and will return to the subject public accommodation when it is made accessible to persons with disabilities.

I. FIRST CAUSE OF ACTION FOR DENIAL OF ACCESS BY A PUBLIC ACCOMMODATION IN VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990 (42 U.S.C. §12101, *et seq.*)
(On behalf of Plaintiffs CRAIG YATES and DISABILITY RIGHTS ENFORCEMENT, EDUCATION, SERVICES: HELPING YOU HELP OTHERS, a California public benefit corporation and Against Defendants ARTHUR C. S. HSU, and GLENDY M. H. HSU TRUSTEES UDT; and RAYMOND HSU, an individual, inclusive)
(42 U.S.C. §12101, *et seq.*)

38. Plaintiffs replead and incorporate by reference, as if fully set forth again herein, the allegations contained in paragraphs 1 through 37 of this complaint.

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39. Pursuant to law, in 1990, the United States Congress made findings per 42 U.S.C. §12101 regarding persons with physical disabilities, finding that laws were needed to more fully protect:

some 43 million Americans with one or more physical or mental disabilities; [that] historically society has tended to isolate and segregate individuals with disabilities; [that] such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem; [that] the nation's proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living and economic self-sufficiency for such individuals; [and that] the continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous.

40. Congress stated as its purpose in passing the Americans with Disabilities Act of 1990 (42 U.S.C. §12102):

It is the purpose of this act (1) to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities; (2) to provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities; (3) to ensure that the Federal government plays a central role in enforcing the standards established in this act on behalf of individuals with disabilities; and (4) to invoke the sweep of Congressional authority, including the power to enforce the 14th Amendment and to regulate commerce, in order to address the major areas of discrimination faced day to day by people with disabilities.

41. As part of the Americans with Disabilities Act of 1990, Public Law 101-336 (hereinafter the "ADA"), Congress passed "Title III - Public Accommodations and Services Operated by Private Entities" (Section 301 42 U.S.C. §12181, *et seq.*). Among the public accommodations identified for purposes of this title was:

(7) PUBLIC ACCOMMODATION - The following private entities are considered public accommodations for purposes of this title, if the operations of such entities affect commerce -

(B) a restaurant, bar or other establishment serving food or drink.

42 U.S.C. §12181(7)(B)

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1 42. Pursuant to §302, 42 U.S.C. §12182, “No individual shall be discriminated against
2 on the basis of disability in the full and equal enjoyment of the goods, services, facilities,
3 privileges, advantages, or accommodations of any place of public accommodation by any person
4 who owns, leases, or leases to, or operates a place of public accommodation.”

5 43. The specific prohibitions against discrimination set forth in §302(b)(2)(a),
6 42 U.S.C. §12182(b)(2)(a) are:

7 (I) the imposition or application of eligibility criteria
8 that screen out or tend to screen out an individual with a disability
9 or any class of individuals with disabilities from fully and equally
10 enjoying any goods, services, facilities, privileges, advantages, or
11 accommodations, unless such criteria can be shown to be necessary
12 for the provision of the goods, services, facilities, privileges,
13 advantages, or accommodations being offered;

14 (ii) a failure to make reasonable modifications in
15 policies, practices, or procedures, when such modifications are
16 necessary to afford such goods, services, facilities, privileges,
17 advantages or accommodations to individuals with disabilities,
18 unless the entity can demonstrate that making such modifications
19 would fundamentally alter the nature of such goods, services,
20 facilities, privileges, advantages, or accommodations;

21 (iii) a failure to take such steps as may be necessary to
22 ensure that no individual with a disability is excluded, denied
23 services, segregated or otherwise treated differently than other
24 individuals because of the absence of auxiliary aids and services,
25 unless the entity can demonstrate that taking such steps would
26 fundamentally alter the nature of the good, service, facility,
27 privilege, advantage, or accommodation being offered or would
28 result in an undue burden;

 (iv) a failure to remove architectural barriers, and
communication barriers that are structural in nature, in existing
facilities . . . where such removal is readily achievable; and

 (v) where an entity can demonstrate that the removal of
a barrier under clause (iv) is not readily achievable, a failure to
make such goods, services, facilities, privileges, advantages or
accommodations available through alternative methods if such
methods are readily achievable.

The acts of defendants set forth herein were a violation of plaintiffs’ rights under the ADA, Public
Law 101-336, and the regulations promulgated thereunder, 28 CFR Part 36, *et seq.* - Effective
January 31, 1993, the standards of the ADA were also incorporated into California Civil Code
§51, making available the damage remedies incorporated into Civil Code §51 and 52(a) and 54.3.

1 44. The removal of the barriers complained of by plaintiffs as hereinabove alleged was
2 at all times after January 26, 1992 “readily achievable” as to the subject building(s) of the Java
3 Restaurant pursuant to 42 U.S.C. §12182 (b)(2)(A)(i)-(iv). On information and belief, if the
4 removal of all the barriers complained of herein together was not “readily achievable,” the
5 removal of each individual barrier complained of herein was “readily achievable.” On
6 information and belief, defendants’ failure to remove said barriers was likewise due to
7 discriminatory practices, procedures and eligibility criteria, as defined by 42 U.S.C. §12182
8 (b)(2)(A)(i)and (ii).

9 45. Per 42 U.S.C. §12181 (9), the term “readily achievable” means “easily
10 accomplishable and able to be carried out without much difficulty or expense.” The statute
11 defines relative “expense” in part in relation to the total financial resources of the entities
12 involved. Plaintiffs allege that properly repairing, modifying, or altering each of the items that
13 plaintiffs complain of herein were and are “readily achievable” by the defendants under the
14 standards set forth under §301(9) of the Americans with Disabilities Act. Furthermore, if it was
15 not “readily achievable” for defendants to remove each of such barriers, defendants have failed to
16 make the required services available through alternative methods which were readily achievable.

17 46. On information and belief, construction work on, and modifications of, the subject
18 building(s) of the Java Restaurant occurred after the compliance date for the Americans with
19 Disabilities Act, January 26, 1992, independently triggering access requirements under Title III of
20 the ADA.

21 47. Pursuant to the Americans with Disabilities Act of 1990, 42 U.S.C. §12188, *et*
22 *seq.*, plaintiffs are entitled to the remedies and procedures set forth in §204(a) of the Civil Rights
23 Act of 1964, 42 U.S.C. 2000(a)-3(a), as plaintiffs are being subjected to discrimination on the
24 basis of disability in violation of this title or have reasonable grounds for believing that plaintiffs
25 are about to be subjected to discrimination in violation of §302. Plaintiffs are deterred from
26 returning to or making use of the public facilities complained of herein so long as the premises
27 and defendants’ policies bar full and equal use by persons with physical disabilities.

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48. 42 U.S.C. 12188 (a)(1) states: “Nothing in this section shall require a person with a disability to engage in a futile gesture if such person has actual notice that a person or organization covered by this title does not intend to comply with its provisions.” Pursuant to this section, plaintiff CRAIG YATES has not returned to defendants’ premises since on or about September 22, 2008, but on information and belief, alleges that defendants have continued to violate the law and deny the rights of plaintiffs and of other persons with physical disabilities to access this public accommodation. Pursuant to 42 USC §12188(a)(2), “In cases of violations of §302(b)(2)(A)(iv) . . . injunctive relief shall include an order to alter facilities to make such facilities readily accessible to and usable by individuals with disabilities to the extent required by this title.”

49. Plaintiffs seek relief pursuant to remedies set forth in §204(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000(a)-3(a)), and pursuant to federal regulations adopted to implement the Americans with Disabilities Act of 1990, including but not limited to an order granting injunctive relief and attorneys’ fees. Plaintiffs will seek attorneys’ fees conditioned upon being deemed to be the prevailing party.

Wherefore, plaintiffs pray for relief and damages as hereinafter stated.

II. SECOND CAUSE OF ACTION FOR DENIAL OF FULL AND EQUAL ACCESS IN VIOLATION OF CALIFORNIA CIVIL CODE §§54, 54.1 AND 54.3, ET SEQ.
 (On Behalf of Plaintiffs CRAIG YATES and DISABILITY RIGHTS, ENFORCEMENT, EDUCATION, SERVICES: HELPING YOU HELP OTHERS, a California public benefit corporation, and Against Defendants ARTHUR C. S. HSU, and GLENDY M. H. HSU TRUSTEES UDT; and RAYMOND HSU, an individual, inclusive)
 (California Civil Code §§54, 54.1, 54.3, *et seq.*)

50. Plaintiffs replead and incorporate by reference as if fully set forth again herein, the allegations contained in paragraphs 1 through 49 of this complaint.

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1 51. At all times relevant to this action, California Civil Code §54 has provided that
 2 persons with physical disabilities are not to be discriminated against because of physical handicap
 3 or disability. This section provides that:

4 (a) Individuals with disabilities . . . have the same rights as
 5 the general public to full and free use of the streets, highways,
 6 sidewalks, walkways, public buildings, medical facilities, including
 7 hospitals, clinics, and physicians' offices, and other public places.

8 52. California Civil Code §54.1 provides that persons with disabilities shall not be
 9 denied full and equal access to places of public accommodation or facilities:

10 (a)(1) Individuals with disabilities shall be entitled to full
 11 and equal access, as other members of the general public, to
 12 accommodations, advantages, facilities, medical facilities, including
 13 hospitals, clinics, and physicians' offices, and privileges of all
 14 common carriers, airplanes, motor vehicles, railroad trains,
 15 motorbuses, streetcars, boats, or any other public conveyances or
 16 modes of transportation (whether private, public, franchised,
 17 licensed, contracted, or otherwise provided), telephone facilities,
 18 adoption agencies, private schools, hotels, lodging places, places of
 19 public accommodation, amusement or resort, and other places to
 20 which the general public is invited, subject only to the conditions
 21 and limitations established by law, or state or federal regulation, and
 22 applicable alike to all persons.

23 Civil Code §54.1(a)(1)

24 53. California Civil Code §54.1 further provides that a violation of the Americans with
 25 Disabilities Act of 1990 constitutes a violation of section 54.1:

26 (d) A violation of the right of an individual under the
 27 Americans with Disabilities Act of 1990 (Public Law 101-336) also
 28 constitutes a violation of this section, and nothing in this section
 shall be construed to limit the access of any person in violation of
 that act.

 Civil Code §54.1(d)

54. Plaintiff CRAIG YATES and the membership of plaintiff DREES are persons
 within the meaning of Civil Code §54.1 whose rights have been infringed upon and violated by
 the defendants, and each of them, as prescribed by Civil Code §§54 and 54.1. Each specific
 architectural barrier which defendants knowingly and willfully fail and refuse to remove
 constitutes a separate act in violation of Civil Code §§54 and 54.1. Plaintiffs have been and
 continue to be denied full and equal access to defendants' Java Restaurant. As a legal result,

1 plaintiffs are entitled to seek damages pursuant to a court or jury determination, in accordance
 2 with California Civil Code §54.3(a) for each day on which they visited or have been deterred from
 3 visiting the restaurant because of their knowledge and belief that the restaurant is inaccessible to
 4 persons with disabilities. California Civil Code §54.3(a) provides:

5 Any person or persons, firm or corporation, who denies or interferes
 6 with admittance to or enjoyment of the public facilities as specified
 7 in Sections 54 and 54.1 or otherwise interferes with the rights of an
 8 individual with a disability under Sections 54, 54.1 and 54.2 is
 9 liable for each offense for the actual damages and any amount as
 10 may be determined by a jury, or the court sitting without a jury, up
 11 to a maximum of three times the amount of actual damages but in
 12 no case less than . . . one thousand dollars (\$1,000) and . . .
 13 attorney's fees as may be determined by the court in addition
 14 thereto, suffered by any person denied any of the rights provided in
 15 Sections 54, 54.1 and 54.2.

16 Civil Code §54.3(a)

17 55. On or about September 14, 2007, February 16, 2008, September 17, 2008 and
 18 September 22, 2008, plaintiff CRAIG YATES suffered violations of Civil Code §§54 and 54.1 in
 19 that plaintiff CRAIG YATES was denied access to the entrance, men's restroom, women's
 20 restroom and other public facilities as stated herein at the Java Restaurant and on the basis that
 21 plaintiff CRAIG YATES was a person with physical disabilities.

22 56. As a result of the denial of equal access to defendants' facilities due to the acts and
 23 omissions of defendants, and each of them, in owning, operating and maintaining these subject
 24 public facilities, plaintiffs suffered violations of plaintiffs' civil rights, including but not limited to
 25 rights under Civil Code §§54, 54.1 and 54.3.

26 57. Further, plaintiff CRAIG YATES suffered mental distress, mental suffering, mental
 27 anguish, which includes shame, humiliation, embarrassment, frustration, anger, disappointment
 28 and worry, all of which are expectedly and naturally associated with a denial of access to a person
 with physical disabilities, all to plaintiff's damages as hereinafter stated. Defendants' actions and
 omissions to act constituted discrimination against plaintiff on the sole basis that plaintiffs are
 persons or an entity that represents persons with physical disabilities and unable, because of the
 architectural barriers created and maintained by the defendants in violation of the subject laws, to
 use the public facilities hereinabove described on a full and equal basis as other persons.

58. Plaintiffs have been damaged by defendants', and each of their, wrongful conduct and seeks the relief that is afforded by Civil Code §§54 and 54.1, 54.3 for violation of plaintiffs' rights as persons or an entity that represents persons with physical disabilities on or about September 14, 2007, February 16, 2008, September 17, 2008 and September 22, 2008, and on a continuing basis since then, including statutory damages, a trebling of all of actual damages, general and special damages available pursuant to §54.3 of the Civil Code according to proof.

59. As a result of defendants', and each of their, acts and omissions in this regard, plaintiffs have been required to incur legal expenses and hire attorneys in order to enforce plaintiffs' rights and enforce the provisions of the law protecting access for persons with physical disabilities and prohibiting discrimination against persons with physical disabilities. Pursuant to the provisions of Civil Code §54.3, plaintiffs therefore will seek recovery in this lawsuit for all reasonable attorneys' fees and costs incurred if deemed the prevailing party. Additionally, plaintiffs' lawsuit is intended not only to obtain compensation for damages to plaintiffs, but also to compel the defendants to make their facilities accessible to all members of the public with disabilities, justifying public interest attorneys' fees, if deemed the prevailing party, pursuant to the provisions of §1021.5 of the Code of Civil Procedure.

Wherefore, plaintiffs pray for relief and damages as hereinafter stated.

III. THIRD CAUSE OF ACTION FOR DENIAL OF ACCESSIBLE SANITARY FACILITIES IN VIOLATION OF HEALTH & SAFETY CODE §19955, *ET. SEQ.*
(On Behalf of Plaintiffs CRAIG YATES and DISABILITY RIGHTS, ENFORCEMENT, EDUCATION, SERVICES: HELPING YOU HELP OTHERS, a California public benefit corporation and Against Defendants ARTHUR C. S. HSU, and GLENDY M. H. HSU TRUSTEES UDT; and RAYMOND HSU, an individual, inclusive)
(Health & Safety Code §19955, *et seq.*)

60. Plaintiffs replead and incorporate by reference, as if fully set forth again herein, the allegations contained in paragraphs 1 through 59 of this complaint.

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1 61. Health & Safety Code §19955 provides in pertinent part:

2 The purpose of this part is to insure that public accommodations or
3 facilities constructed in this state with private funds adhere to the
4 provisions of Chapter 7 (commencing with Sec. 4450) of Division 5
5 of Title 1 of the Government Code. For the purposes of this part
6 “public accommodation or facilities” means a building, structure,
7 facility, complex, or improved area which is used by the general
8 public and shall include auditoriums, hospitals, theaters, restaurants,
9 hotels, motels, stadiums, and convention centers. When sanitary
10 facilities are made available for the public, clients or employees in
11 such accommodations or facilities, they shall be made available for
12 the handicapped.

13 62. Health & Safety Code §19956, which appears in the same chapter as §19955,
14 provides in pertinent part, “accommodations constructed in this state shall conform to the
15 provisions of Chapter 7 (commencing with Sec. 4450) of Division 5 of Title 1 of the Government
16 Code” Health & Safety Code §19956 was operative July 1, 1970, and is applicable to all
17 public accommodations constructed or altered after that date. On information and belief, portions
18 of the Java Restaurant and/or of the building(s) were constructed and/or altered after July 1, 1970,
19 and substantial portions of the restaurant and/or the building(s) had alterations, structural repairs,
20 and/or additions made to such public accommodations after July 1, 1970, thereby requiring said
21 restaurant and/or building to be subject to the requirements of Part 5.5, §19955, *et seq.*, of the
22 Health & Safety Code upon such alteration, structural repairs or additions per Health & Safety
23 Code §19959.

24 63. Pursuant to the authority delegated by Government Code §4450, *et seq.*, the State
25 Architect promulgated regulations for the enforcement of these provisions. Effective July 1,
26 1982, Title 24 of the California Building Standards Code adopted the California State Architect’s
27 Regulations and these regulations must be complied with as to any alterations and/or
28 modifications of the Java Restaurant and/or the building(s) occurring after that date. Construction
29 changes occurring prior to this date but after July 1, 1970 triggered access requirements pursuant
30 to the “ASA” requirements, the American Standards Association Specifications, A117.1-1961.

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1 On information and belief, at the time of the construction and modification of said building, all
2 buildings and facilities covered were required to conform to each of the standards and
3 specifications described in the American Standards Association Specifications and/or those
4 contained in Title 24 of the California Building Standards Code.

5 64. Restaurants such as the Java Restaurant are “public accommodations or facilities”
6 within the meaning of Health & Safety Code §19955, *et seq.*

7 65. As a result of the actions and failure to act of defendants, and as a result of the
8 failure to provide proper and legally handicapped-accessible public facilities, plaintiffs were
9 denied plaintiffs’ rights to full and equal access to public facilities and suffered a loss of plaintiffs’
10 civil rights and plaintiffs’ rights as persons with physical disabilities to full and equal access to
11 public facilities.

12 66. Attorneys’ Fees -- As a result of defendants’ acts and omissions in this regard,
13 plaintiffs have been required to incur legal expenses and hire attorneys in order to enforce
14 plaintiffs’ civil rights and enforce provisions of the law protecting access for the persons with
15 physical disabilities and prohibiting discrimination against the persons with physical disabilities,
16 and to take such action both in plaintiffs’ own interests and in order to enforce an important right
17 affecting the public interest. Plaintiffs, therefore, seek in this lawsuit the recovery of all
18 reasonable attorneys’ fees incurred, pursuant to the provisions of the Code of Civil Procedure
19 §1021.5. Plaintiffs additionally seek attorneys’ fees pursuant to Health & Safety Code §19953
20 and Civil Code §§54.3 and/or in the alternative, plaintiffs will seek attorneys’ fees, costs and
21 litigation expenses pursuant to §204(a) of the Civil Rights Act of 1964 (42 U.S.C. 200(a)-3(a)).
22 Plaintiffs will seek attorneys’ fees conditioned upon being deemed to be the prevailing party.

23 67. Plaintiffs seek injunctive relief for an order compelling defendants, and each of
24 them, to make the subject place of public accommodation readily accessible to and usable by
25 persons with disabilities.

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Wherefore, plaintiffs pray for damages and relief as hereinafter stated.

IV. FOURTH CAUSE OF ACTION FOR DENIAL OF ACCESS TO FULL AND EQUAL ACCOMMODATIONS, ADVANTAGES, FACILITIES, PRIVILEGES AND/OR SERVICES IN VIOLATION OF CALIFORNIA CIVIL CODE §51, ET SEQ. (THE UNRUH CIVIL RIGHTS ACT)

(On Behalf of Plaintiffs CRAIG YATES and DISABILITY RIGHTS, ENFORCEMENT, EDUCATION, SERVICES: HELPING YOU HELP OTHERS, a California public benefit corporation, and Against Defendants ARTHUR C. S. HSU, and GLENDY M. H. HSU TRUSTEES UDT; and RAYMOND HSU, an individual, inclusive)
(Civil Code §51, 51.5)

68. Plaintiffs replead and incorporate by reference, as if fully set forth again herein, the allegations contained in paragraphs 1 through 67 of this complaint.

69. Defendants' actions and omissions and failure to act as a reasonable and prudent public accommodation in identifying, removing and/or creating architectural barriers, policies, practices and/or procedures violates §51 of the Civil Code, the Unruh Civil Rights Act. The Unruh Act provides:

This section shall be known, and may be cited, as the Unruh Civil Rights Act.

All persons within the jurisdiction of this state are free and equal, and no matter what their sex, race, color, religion, ancestry, national origin, or **disability** are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever.

This section shall not be construed to confer any right or privilege on a person that is conditioned or limited by law or that is applicable alike to persons of every sex, color, race, religion, ancestry, national origin, or **disability**.

Nothing in this section shall be construed to require any construction, alteration, repair, structural or otherwise, or modification of any sort whatsoever, beyond that construction, alteration, repair, or modification that is otherwise required by other provisions of law, to any new or existing establishment, facility, building, improvement, or any other structure . . . nor shall anything in this section be construed to augment, restrict, or alter in any way the authority of the State Architect to require construction, alteration, repair, or modifications that the State Architect otherwise possesses pursuant to other . . . laws.

A violation of the right of any individual under the Americans with Disabilities Act of 1990 (Public Law 101-336) shall also constitute a violation of this section.

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1 As the Unruh Act incorporates violations of the Americans with Disabilities Act of 1990, the
 2 “intent” of the defendants in not complying with barrier removal is not an issue. Hence, the
 3 failure on the parts of defendants, as reasonable and prudent public accommodations, in acting or
 4 failing to act to identify and remove barriers can be construed as a “negligent per se” act of
 5 defendants, and each of them.

6 70. The acts and omissions of defendants stated herein are discriminatory in nature and
 7 in violation of Civil Code §51.5:

8 No business establishment of any kind whatsoever shall
 9 discriminate against, boycott or blacklist, refuse to buy from, sell to,
 10 or trade with any person in this state because of the race, creed,
 11 religion, color, national origin, sex, or **disability** of the person or of
 the person’s partners, members, stockholders, directors, officers,
 managers, superintendents, agents, employees, business associates,
 suppliers, or customers.

12 As used in this section, “person” includes any person, firm
 13 association, organization, partnership, business trust, corporation,
 limited liability company, or company.

14 Nothing in this section shall be construed to require any
 15 construction, alteration, repair, structural or otherwise, or
 16 modification of any sort whatsoever, beyond that construction,
 17 alteration, repair or modification that is otherwise required by other
 18 provisions of law, to any new or existing establishment, facility,
 19 building, improvement, or any other structure . . . nor shall anything
 in this section be construed to augment, restrict or alter in any way
 the authority of the State Architect to require construction,
 alteration, repair, or modifications that the State Architect otherwise
 possesses pursuant to other laws.

20 71. Defendants’ acts and omissions as specified have denied to plaintiffs full and equal
 21 accommodations, advantages, facilities, privileges and services in a business establishment, on the
 22 basis of physical disability, in violation of Civil Code §§51 and 51.5, the Unruh Civil Rights Act.
 23 Furthermore, pursuant to the 1992 amendment to California Civil Code §51, “A violation of the
 24 right of any individual under the Americans with Disabilities Act of 1990 (Public Law 101-336)
 25 shall also constitute a violation of this section.” Plaintiffs accordingly incorporate the entirety of
 26 their above cause of action for violation of the Americans with Disabilities Act at §38, *et seq.*, as
 27 if replied herein.
 28

72. As a legal result of the violation of plaintiff CRAIG YATES's civil rights as hereinabove described, plaintiff CRAIG YATES has suffered general and statutory damages.

73. Further, plaintiff CRAIG YATES suffered physical injury, emotional distress (all to plaintiff's damage according to proof, and incurred reasonable attorneys' fees and costs). Plaintiffs CRAIG YATES and DREES are entitled to the rights and remedies of §52(a) of the Civil Code, including trebling of actual damages (defined by §52(h) of the Civil Code to mean "special and general damages"), as well as to reasonable attorneys' fees and costs, as is allowed by statute, according to proof if deemed to be the prevailing party.

PRAYER:

Plaintiffs pray that this court award damages and provide relief as follows:

I. PRAYER FOR FIRST CAUSE OF ACTION FOR DENIAL OF ACCESS BY A PUBLIC ACCOMMODATION IN VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990 (42 U.S.C. §12101, *et seq.*)
(On Behalf of Plaintiffs CRAIG YATES and DISABILITY RIGHTS ENFORCEMENT, EDUCATION, SERVICES:HELPING YOU HELP OTHERS, a California public benefit corporation, and Against Defendants ARTHUR C. S. HSU, and GLENDY M. H. HSU TRUSTEES UDT; and RAYMOND HSU, an individual, inclusive)
(42 U.S.C. §12101, *et seq.*)

1. For injunctive relief, compelling defendants ARTHUR C. S. HSU, and GLENDY M. H. HSU TRUSTEES UDT; and RAYMOND HSU, an individual, inclusive, to make the Java Restaurant, located at 417 Clement Street, San Francisco, California, readily accessible to and usable by individuals with disabilities, per 42 U.S.C §12181, *et seq.*, and to make reasonable modifications in policies, practice, eligibility criteria and procedures so as to afford full access to the goods, services, facilities, privileges, advantages and accommodations being offered.

2. For attorneys' fees, litigation expenses and costs of suit, if plaintiffs are deemed the prevailing party; and

3. For such other and further relief as the court may deem proper.

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II. PRAYER FOR SECOND CAUSE OF ACTION FOR DENIAL OF FULL AND EQUAL ACCESS IN VIOLATION OF CALIFORNIA CIVIL CODE §§54, 54.1 AND 54.3, ET SEQ.

(On Behalf of Plaintiffs CRAIG YATES and DISABILITY RIGHTS ENFORCEMENT, EDUCATION, SERVICES:HELPING YOU HELP OTHERS, a California public benefit corporation, and Against Defendants ARTHUR C. S. HSU, and GLENDY M. H. HSU TRUSTEES UDT; and RAYMOND HSU, an individual, inclusive)
(California Civil Code §§54, 54.1, 54.3, *et seq.*)

1. For injunctive relief, compelling defendants ARTHUR C. S. HSU, and GLENDY M. H. HSU TRUSTEES UDT; and RAYMOND HSU, an individual, inclusive, to make the Java Restaurant, located at 417 Clement Street, San Francisco, California, readily accessible to and usable by individuals with disabilities, per state law.

2. Statutory damages as afforded by Civil Code §54.3 for the date of incident and for each occasion on which plaintiffs were deterred from returning to the subject public accommodation.

3. Attorneys' fees pursuant to Civil Code §54.3 and Code of Civil Procedure §1021.5, if plaintiffs are deemed the prevailing party;

4. Treble damages pursuant to Civil Code §54.3;

5. For all costs of suit;

6. Prejudgment interest pursuant to Civil Code §3291; and

7. Such other and further relief as the court may deem just and proper.

III. PRAYER FOR SECOND CAUSE OF ACTION FOR DENIAL OF FULL AND EQUAL ACCESS IN VIOLATION OF CALIFORNIA CIVIL CODE §§54, 54.1 AND 54.3, ET SEQ.

(On Behalf of Plaintiff CRAIG YATES, and Against Defendants ARTHUR C. S. HSU, and GLENDY M. H. HSU TRUSTEES UDT; and RAYMOND HSU, an individual, inclusive),
(California Civil Code §§54, 54.1, 54.3, *et seq.*)

1. General and compensatory damages according to proof.

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1 **IV. PRAYER FOR THIRD CAUSE OF ACTION FOR DENIAL OF ACCESSIBLE**
 2 **SANITARY FACILITIES IN VIOLATION OF HEALTH & SAFETY CODE**
 3 **§19955, ET. SEQ.**

4 (On Behalf of Plaintiffs CRAIG YATES and DISABILITY RIGHTS ENFORCEMENT,
 5 EDUCATION, SERVICES:HELPING YOU HELP OTHERS, a California public benefit
 6 corporation, and Against Defendants ARTHUR C. S. HSU, and GLENDY M. H. HSU
 7 TRUSTEES UDT; and RAYMOND HSU, an individual, inclusive)
 8 (Health & Safety code §19955, *et seq.*)

9 1. For injunctive relief, compelling defendants ARTHUR C. S. HSU, and GLENDY
 10 M. H. HSU TRUSTEES UDT; and RAYMOND HSU, an individual, inclusive, to make the Java
 11 Restaurant, located at 417 Clement Street, San Francisco, California, readily accessible to and
 12 usable by individuals with disabilities, per state law.

13 2. For attorneys' fees pursuant to Code of Civil Procedure §1021.5, and/or,
 14 alternatively, Health & Safety Code §19953, if plaintiffs are deemed the prevailing party;

15 3. For all costs of suit;

16 4. For prejudgment interest pursuant to Civil Code §3291; and

17 5. Such other and further relief as the court may deem just and proper.

18 **V. PRAYER FOR FOURTH CAUSE OF ACTION FOR DENIAL OF ACCESS TO**
 19 **FULL AND EQUAL ACCOMMODATIONS, ADVANTAGES, FACILITIES,**
 20 **PRIVILEGES AND/OR SERVICES IN VIOLATION OF CALIFORNIA CIVIL**
 21 **CODE §51, ET SEQ. (THE UNRUH CIVIL RIGHTS ACT)**

22 (On Behalf of Plaintiffs CRAIG YATES and DISABILITY RIGHTS ENFORCEMENT,
 23 EDUCATION, SERVICES:HELPING YOU HELP OTHERS, a California public benefit
 24 corporation and Against Defendants ARTHUR C. S. HSU, and GLENDY M. H. HSU
 25 TRUSTEES UDT; and RAYMOND HSU, an individual, inclusive)
 26 (California Civil Code §§51, 51.5, *et seq.*)

27 1. All statutory damages as afforded by Civil Code §52(a) for the date of incident and
 28 for each occasion on which plaintiffs were deterred from returning to the subject public
 accommodation;

2. Attorneys' fees pursuant to Civil Code §52(a), if plaintiffs are deemed the
 prevailing party;

3. Treble damages pursuant to Civil Code §52(a);

4. For all costs of suit;

5. Prejudgment interest pursuant to Civil Code §3291; and

6. Such other and further relief as the court may deem just and proper.

1 **VI. PRAYER FOR FOURTH CAUSE OF ACTION FOR DENIAL OF ACCESS TO**
2 **FULL AND EQUAL ACCOMMODATIONS, ADVANTAGES, FACILITIES,**
3 **PRIVILEGES AND/OR SERVICES IN VIOLATION OF CALIFORNIA CIVIL**
4 **CODE §51, ET SEQ. (THE UNRUH CIVIL RIGHTS ACT)**
5 (On Behalf of Plaintiff CRAIG YATES and Against Defendants ARTHUR C. S. HSU,
6 and GLENDY M. H. HSU TRUSTEES UDT; and RAYMOND HSU, an individual,
7 inclusive)
8 (California Civil Code §§51, 51.5, et seq.)

9 1. General and compensatory damages to plaintiff CRAIG YATES according to
10 proof.

11 Dated: 10/16/08, 2008 THOMAS E. FRANKOVICH,
12 A PROFESSIONAL LAW CORPORATION

13 By: 

14 THOMAS E. FRANKOVICH
15 Attorneys for Plaintiffs CRAIG YATES and
16 DISABILITY RIGHTS ENFORCEMENT, EDUCATION,
17 SERVICES: HELPING YOU HELP OTHERS, a California
18 public benefit corporation

19 **DEMAND FOR JURY TRIAL**

20 Plaintiffs hereby demand a jury for all claims for which a jury is permitted.

21 Dated: 10/16/08, 2008 THOMAS E. FRANKOVICH,
22 A PROFESSIONAL LAW CORPORATION

23 By: 

24 THOMAS E. FRANKOVICH
25 Attorneys for Plaintiffs CRAIG YATES and
26 DISABILITY RIGHTS, ENFORCEMENT, EDUCATION,
27 SERVICES: HELPING YOU HELP OTHERS, a California
28 public benefit corporation

EXHIBIT A

Craig Yates
1004 Los Gatos Road, Unit E
San Rafael, CA 94903

March 28, 2008

Manager
Java Indonesia Restaurant
417 Clement St.
San Francisco, CA 94118

Dear Manager of Java Indonesia Restaurant.:

Recently, I visited Java Indonesia Restaurant. As I use a wheelchair, I had problems with not being able to enter and dine in the restaurant. I think you could pour a ramp in from the sidewalk. I think you have plenty of room.

I would really appreciate it if you would give me written assurance within the next two weeks that you will take care of these problems within the next three months. I'd like a written agreement. If you cannot do this would you forward my letter to whomever is in charge. I'd like to come back to Java Indonesia Restaurant once it is accessible to me. I may still come back before you do the work just because I like the place. Would you please reply to my letter by FedEx to make sure I get your response?

I found out who might be able to help you. If you need information on exactly what you need to do, you can contact Pacific ADA and IT Center in Oakland at 1-800-949-4232, or the federal government at 1-800-514-0301. Either of them can send you a copy of the ADA and ADAAG codes, specifications, diagrams and manuals so that you can do the work yourself or have someone do it for you. You could also get a list of barriers common to places like yours and do your own inspection for barriers and remove them.

I was told that, if you make less than a million dollars per year and have a few employees, that you can get a \$10,000 tax credit to make your place accessible. That's a great deal. You can get information on this from the two places I mentioned above. You should talk to your accountant about it. Maybe your account already has this information or knows about it.

Thank you for considering my request.

Thank You,


Craig Yates

Craig Yates
1004 Los Gatos Road, Unit E
San Rafael, CA 94903

March 28, 2008

Owner of Building
Java Indonesia Restaurant
417 Clement St.
San Francisco, CA 94118

Dear Owner of Building for Java Indonesia Restaurant:

Recently, I visited Java Indonesia Restaurant. As I use a wheelchair, I had problems with not being able to enter and dine in the restaurant. I think you could pour a ramp in from the sidewalk. I think you have plenty of room.

I would really appreciate it if you would give me written assurance within the next two weeks that you will take care of these problems within the next three months. I'd like a written agreement. If you cannot do this would you forward my letter to whomever is in charge. I'd like to come back to Java Indonesia Restaurant once it is accessible to me. I may still come back before you do the work just because I like the place. Would you please reply to my letter by FedEx to make sure I get your response?

I found out who might be able to help you. If you need information on exactly what you need to do, you can contact Pacific ADA and IT Center in Oakland at 1-800-949-4232, or the federal government at 1-800-514-0301. Either of them can send you a copy of the ADA and ADAAG codes, specifications, diagrams and manuals so that you can do the work yourself or have someone do it for you. You could also get a list of barriers common to places like yours and do your own inspection for barriers and remove them.

I was told that, if you make less than a million dollars per year and have a few employees, that you can get a \$10,000 tax credit to make your place accessible. That's a great deal. You can get information on this from the two places I mentioned above. You should talk to your accountant about it. Maybe your accountant already has this information or knows about it.

Thank you for considering my request.

Thank You

Craig Yates

